

Message Text

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PAGE 01 NEW DE 02980 041320Z

43

ACTION NEA-09

INFO OCT-01 ISO-00 SNM-02 /012 W
----- 010255

R 041050Z MAR 75
FM AMEMBASSY NEW DELHI
TO DEA HQS WASHDC
INFO AMEMBASSY ANKARA
SECSTATE WASHDC 7270

LIMITED OFFICIAL USE NEW DELHI 2980

E.O. 11652: N/A
TAGS: SNAR, IN, DEA
SUBJ: R1-72-0068

REF: A. DEA 01502, 312220Z JAN 75
B. NEW DELHI 2035, 121125Z FEB 75

1. DIG RAMACHANDRAN, SUPT MOHAN AND DSP SACHDEVA, CBI ADVISED THAT GOI COUNSEL AFTER REVIEW OF QUESTION RAISED IN PAR 3 OF REF A IS OF OPINION THAT THERE IS NO PROBLEM. THEIR POINTS ARE AS FOLLOWS:

- A. QUESTION OF BURKE BEING ARMED WAS NOT BROUGHT OUT IN DIRECT TESTIMONY AND IS NOWHERE SET FORTH IN THE OFFICIAL RECORD OF THE TRIAL, SO THAT THE DEFENSE WOULD NORMALLY BE PRECLUDED FROM RAISING IT IN CROSS EXAMINATION.
- B. SHOULD THE QUESTION BE ASKED OF BURKE AND HE BE REQUIRED TO ANSWER OVER THE PROSECUTORS OBJECTION, THE FACT OF HIS BEING REQUIRED TO ANSWER WOULD CONFER IMMUNITY ON HIM UNDER RULE 132 OF GOI RULES OF EVIDENCED.
- C. CHARGES OF VIOLATION OF THE WEAPONS ACT CAN ONLY BE INITIATED BY THE GOVT, NOT BY ANYONE ELSE. SUCH CHARGES WOULD NOT BE CONSIDERED IN THIS SITUATION.

2. RAMACHANDRAN ALSO ADVISED THAT IT WOULD NOT BE POSSIBLE FOR BURKE TO COMPLETE HIS TESTIMONY IN U.S. SINCE HE HAS ALREADY GIVE PART OF IT IN INDIA.

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PAGE 02 NEW DE 02980 041320Z

3. CONTINUATION OF BURKE'S TESTIMONY STILL SCHEDULED FOR

MAR 13. HOWEVER APPEAL TIME FOR DEFENSE ON DENIAL OF LAST MOTION
WILL NOT HAVE EXPIRED BY THAT DATE. GOI IS TRYING TO RESOLVE
THE APPEAL QUESTION AND WILL ADVISE NEW DELHI DO. SUGGEST BURKE
NOT LEAVE FOR INDIA UNTIL EXACT DATE ACTUALLY MAILED DOWN.
NEW DELHI DO WILL KEEP HQS ADVISED.

SAXBE

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Message Attributes

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